AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAG

United States of America
v.
GABRIEL URIBE-BAUTISTA

Case No. 3 12 71344 NC

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 24, 2012 in the county of San Mateo in the Northern District of California, the defendant(s) violated:

Code Section	*Offense Description*
21 U.S.C. § 841(a)(1), (b)(1)(A)(viii)	Distribution and Possession with Intent to Distribute a Controlled Substance, to wit 500 grams or more of mixture/substance containing methamphetamine Maximum penalties: life imprisonment and a mandatory minimum of 10 years imprisonment; lifetime supervised release and a mandatory minimum of 5 years supervised relase; $10 million fine; and $100 special assessment

This criminal complaint is based on these facts:

Please see the attached affidavit of DEA Task Force Officer Joseph C. Palmer.

(Approved as to form: AUSA Alexa Summer)

☑ Continued on the attached sheet.

Complainant's signature

Task Force Officer Joseph C. Palmer
Printed name and title

Sworn to before me and signed in my presence.

Date: 12/21/2012

Judge's signature

City and state: San Francisco, CA

Hon. Nathanael Cousins, U.S. Magistrate Judge
Printed name and title

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. GABRIEL URIBE-BAUTISTA, Defendant.	COMPLAINT AFFIDAVIT

I, Joseph C. Palmer, Deputy United States Marshal, Task Force Officer, U.S. Drug Enforcement Administration, United States Department of Justice, being duly sworn, hereby state and affirm:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. I submit this affidavit in support of a criminal complaint against Gabriel URIBE-BAUTISTA for violating 21 United States Code, Section 841(a)(1).

2. The facts set forth in this affidavit are known to me as a result of my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, my review of documents and records related to this investigation, communications with others who have personal knowledge of the

events and the circumstances described herein, and information gained through my training and experience. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of a complaint, it does not set forth each and every fact that I, or others, have learned during the course of the investigation.

II. AGENT'S BACKGROUND AND EXPERIENCE

3. I am a Task Force Officer ("TFO") of the Drug Enforcement Administration ("DEA"), San Francisco Field Divisional Office, and have been so employed since August 2012. I am also a Deputy United States Marshal ("DUSM"), and have been so employed since March 2010.

4. From March 2010 through July 2010, I attended the United States Marshals Training program at the Federal Law Enforcement Training Center ("FLETC") in Glynco, Georgia. While at FLETC, I completed the Marshals Pre-Basic Program, the Criminal Investigator Training Program ("CITP"), and the United States Marshals Basic Training Course. The CITP course included training on narcotics investigative matters, including but not limited to drug interdiction, drug detection, money laundering techniques and schemes, smuggling and the investigation of individuals and organizations involved in the smuggling, cultivation, manufacturing, and illicit trafficking of controlled substances.

5. During my time as a DUSM, my duties have included the following: task force operations with DEA, fugitive apprehension, investigations into violations of Court orders, court operations, prisoner production, prisoner processing, and the maintenance of prisoner records. Deputy United States Marshals are commissioned federal law enforcement officers of the United States and are authorized to carry firearms, execute warrants, make arrests for offenses against the United States of America, and perform other law enforcement duties as authorized by law.

6. Both while a DUSM and while a DEA TFO, I have received on-the-job training from experienced Special Agents of the DEA and other experienced law enforcement officers who are recognized experts in the field of narcotics investigations. I have participated in numerous investigations involving narcotics and controlled substances such as cocaine, methamphetamine, and marijuana. I have almost daily conversations with other experienced agents and officers regarding narcotics and narcotics-related subjects for the purpose of expanding and developing

my expertise in the area of identification, sales, possession for sales, and distribution of narcotics and methods of operation of narcotics traffickers.

7. My experience as a DUSM and DEA TFO also includes actively participating in numerous search warrants authorizing the search of locations such as residences, businesses, and vehicles related to illegal activities. In addition, I have participated in hundreds of hours of surveillance operations, observing and recording movement of persons engaging in illegal activities. As a result of my experience, and from speaking with and reviewing reports of experienced DEA Special Agents and other law enforcement officers regarding drug-related investigations, I have encountered and have become familiar with the day-to-day operations and the various tools, methods, trends, paraphernalia, and related articles used by various traffickers in their efforts to possess, import, conceal, and distribute controlled substances.

8. I am one of the case agents participating in the investigation of Gabriel URIBE-BAUTISTA and others for narcotics trafficking and other offenses.

III. APPLICABLE LAW

9. Title 21, United States Code, Section 841 prohibits a person from manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense, a controlled substance. There are two elements to this offense:

i. The defendant knowingly manufactured, distributed, dispensed, or possessed with the intent to manufacture, distribute, or dispense;

ii. A controlled substance.

Pursuant to 21 U.S.C. § 841(b)(1)(A)(viii), any person who violates 21 U.S.C. § 841(a)(1) in a case involving 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine is subject to a mandatory minimum term of imprisonment of ten years and a maximum penalty of life imprisonment.

IV. FACTS ESTABLISHING PROBABLE CAUSE

10. This case involves the attempted shipment of 2.87 kilograms (net) of a mixture or substance containing methamphetamine and additional cocaine to the Philippines and subsequent discovery of additional cocaine in Gabriel URIBE-BAUTISTA's residence.

August 24, 2012 Discovery of Methamphetamine

11. On August 24, 2012, at approximately 6:00 p.m., Special Agents with the San Mateo County Narcotics Task Force ("NTF SAs"), received an on-call communication from San Mateo County Communications relating to a possible discovery of narcotics at ABS CBN International, a shipping company, located at 150 Shoreline Drive, Redwood City, CA.

12. NTF SAs reported to that location and were told that several employees from ABS CBN International had opened and inspected two boxes — as was customary for packages being shipped by air — that had been dropped off that day to be shipped, and had found large quantities of an unknown white substance. Both packages were being shipped to the same recipient in the Philippines and included the same return address, as follows:

> Addressed to: Miguel Lopez 130 Carlos Planca St. Legaspi Village Makati City Philippines
>
> Return Address: Greg Liweg 698 Ranchero Drive San Jose CA 95111

13. NTF SAs inspected the packages and the contents of the packages. The first was a FedEx box with two plastic baggies. Each bag contained approximately 1030 grams (gross weight) of suspected methamphetamine, totaling approximately 2060 grams (gross weight). The suspected methamphetamine was field tested positive for the presence of methamphetamine.

14. The second package was a FedEx box with two plastic baggies and two newspapers. One plastic bag contained approximately 934 grams (gross weight) of suspected methamphetamine. The second bag contained three different baggies totaling approximately 100 grams (gross weight) of suspected cocaine. The suspected cocaine field tested positive for the presence of cocaine.

15. Based on their training and experience, the NTF SAs believed that the narcotics were possessed for the purposes of later distribution due to the large quantity alone. The NTF SAs collected the evidence and booked it into the San Mateo County Sheriff's Office property room.

16. The NTF SAs reviewed the CCTV footage from ABS CBN International and obtained a still photograph of the man who dropped off the packages. They determined that the man had arrived and departed the business in the passenger seat of a silver-colored Mini Cooper.

The employees were told to contact police if the sender came back.

September 12, 2012 Inquiry by URIBE-BAUTISTA

17. On September 12, 2012, at approximately 12:00 noon, the NTF SAs received a phone call from the security manager at ABS CBN International. The security manager stated that two men had come in to inquire about the status of the previously-seized packages. Employees of ABS CBN International told investigators that the vehicle they were driving was a 2001 Dodge Stratus, with California license plate number 4SSA703. Upon investigation, it was determined that the vehicle was registered to 1611 Oxford Street, Redwood City, CA.

18. That afternoon the vehicle identified by the ABS CBN International employees was seen by law enforcement arriving at 1611 Oxford Street, Redwood City, CA, with a sole occupant. The sole occupant of the vehicle (hereinafter referred to as "Individual #1") was contacted and interviewed by law enforcement at the scene. Individual #1 told investigators that he had just come from a business in Redwood Shores where he had taken his friend "Gabriel" to check on a package. (ABS CBN International is in an area generally referred to as "Redwood Shores.") Individual #1 stated that he had been contacted by his friend Gabriel earlier that day and had agreed to give Gabriel a ride to check on a package that Gabriel had shipped a few days prior.

19. Once at the business, Individual #1 stated that Gabriel had asked him to come inside to help him translate from English to Spanish. Once inside, Gabriel handed Individual #1 a receipt which had the tracking number for the package. Individual #1 handed the receipt to the front desk clerk. Individual #1 stated that the clerk then appeared to get very nervous and told them that she needed to check with her manager to get the status of the package. Individual #1 stated that after a while the manager came out and asked Gabriel for a call back number and what name the package was listed under; Gabriel responded, "Pancho Villa." The manager then gave them a business card, and they left the business.

20. Individual #1 stated that, after they left, he dropped off Gabriel at Gabriel's house on Jackson Avenue prior to arriving home. Individual #1 said he would point out the location where he dropped off Gabriel, and subsequently identified 139 Jackson Avenue, Redwood City, CA.

Arrest of URIBE-BAUTISTA

21. Later that same day, a gray Mini Cooper matching the description given by the ABS CBN International employees on August 24, 2012 was seen by law enforcement arriving at 139 Jackson Avenue, Redwood City, CA. A man (hereinafter referred to as "Individual #2") was seen exiting the vehicle and entering the residence at 139 Jackson Avenue, Apt. A. After approximately ten minutes, Individual #2 was seen exiting the residence and driving away in the Mini Cooper. The gray 2005 Mini Cooper with California license plate number 5KMW208 was registered to Individual #2. A traffic stop was conducted on the Mini Cooper.

22. Following the traffic stop, NTF SAs approached the residence of 139 Jackson Avenue, Apt. A, in an attempt to preserve the scene while a search warrant was sought for the premises. The NTF SAs then contacted Gabriel URIBE-BAUTISTA inside the house. Upon executing a search warrant of the premises, NTF SAs placed Gabriel URIBE-BAUTISTA under arrest. Among other things, additional cocaine was found in the residence.

23. A search of URIBE-BAUTISTA's person revealed that he had a business card from ABS CBN International, and a receipt from the same business numbered 6358, dated August 24, 2012, with the name "Pancho Villa" printed on it.

Information from Individual #2

24. Individual #2 was interviewed at least twice on September 12, 2012. At the traffic stop, he was interviewed in English, and shown a still surveillance image from ABS CBN International from August 24, 2012 of the male who dropped off the packages on that date. Individual #2 identified the image as depicting himself.

25. Although URIBE-BAUTISTA and Individual #2 look somewhat alike, Individual #2 has several tattoos on his arms and one on his left calf. Individual #2 has large tattoos on both his left and right arms between the shoulder and the elbow that cover nearly the entire exterior of both upper arms. Individual #2 has a colorful tattoo that covers the back of his left leg at the calf, which covers the entire width of the back of his left leg and is approximately 6 inches tall. The CCTV footage from ABS CBN International depicts the man who dropped off the packages on August 24, 2012 in color, both from the front and the back. No tattoos appear on the individual

in the footage, where the individual is wearing shorts and a short-sleeved shirt. Tattoos on the individual's calf and just above his elbow would be visible. According to San Mateo County booking sheets, URIBE-BAUTISTA has two tattoos: one on his right shoulder of a tiger, and "Uribe" on his chest.

26. Individual #2 was interviewed in Spanish later on September 12, 2012 as well, by a NTF SA who is an advanced Spanish interpreter. Individual #2 said that he had given a ride to URIBE-BAUTISTA a couple of times to a shipping company near the Redwood Shores area. Individual #2 said that he had no idea what was in the packages and would not question URIBE-BAUTISTA about it.

September 21, 2012 Interview of ABS CBN International Employees

27. On September 21, 2012, NTF SAs conducted follow-up interviews at ABS CBN International. They brought with them two photo line-ups — each line-up containing six photographs — one with a picture of URIBE-BAUTISTA and one with Individual #2.

28. One employee, who stated that he/she had seen the individual who dropped off the package on August 24, 2012 and saw the same individual inquire about the package on September 12, 2012, positively identified URIBE-BAUTISTA as that individual from the line-up that included his picture. This employee had seen a newspaper article published between September 12, 2012 and September 21, 2012 containing URIBE-BAUTISTA's photograph, and stated that when he/she had seen the photograph, he/she immediately thought "that's him." This employee was also shown the line-up containing Individual #2's photograph and stated that the suspect was not pictured.

29. A second employee, who was present when the package was dropped off on August 24, 2012, had not seen the newspaper article containing URIBE-BAUTISTA's photograph. This employee was shown the line-up containing URIBE-BAUTISTA's photograph and stated that the suspect looked like the person in position #2 (which was URIBE-BAUTISTA's photograph) but he/she was not positive, and stated that the suspect had only stubble on his face and not a full beard like the photo depicted.

30. A third employee, who was present when the package was dropped off on August 24,

2012, positively identified URIBE-BAUTISTA as that individual from the line-up that included his picture. This employee had seen a newspaper article published between September 12, 2012 and September 21, 2012 containing URIBE-BAUTISTA's photograph, and stated that when he/she had seen the photograph, he/she immediately thought "it was him."

Drug Test Analysis

31. The NTF SAs transported the methamphetamine and cocaine seized on August 24, 2012, as well as the cocaine seized on September 12, 2012, to the San Mateo County Sheriff's Office Forensic Laboratory, which analyzed the same and prepared a Controlled Substances Report. The substances tested positive for the presence of methamphetamine and cocaine, respectively. The total weight of the methamphetamine was 2.87 kilograms (net).

V. CONCLUSION

Based on the foregoing, I submit that there is probable cause to believe that on August 24, 2012, in the Northern District of California, Gabriel URIBE-BAUTISTA violated 21 United States Code, Section 841(a)(1) by distributing and possessing with intent to distribute a controlled substance, to wit 500 grams or more of a mixture or substance containing methamphetamine.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

JOSEPH C. PALMER
Task Force Officer
Drug Enforcement Administration

SWORN AND SUBSCRIBED TO BEFORE ME
THIS 21 DAY OF DECEMBER, 2012

HONORABLE NATHANAEL COUSINS
United States Magistrate Judge